

**733 Arnow Realty Associates, L.L.C. and Service Employees International Union, Local 32E, AFL-CIO. Case AO-344**

December 23, 1996

**ADVISORY OPINION**

BY CHAIRMAN GOULD AND MEMBERS BROWNING  
AND FOX

Pursuant to Sections 102.98(a) and 102.99 of the National Labor Relations Board's Rules and Regulations, on November 20, 1996, 733 Arnow Realty Associates, L.L.C. (the Employer), filed a Petition for Advisory Opinion as to whether the Board would assert jurisdiction over its operations. In pertinent part, the petition alleges as follows:

1. A proceeding, Case SE-59217, is currently pending before the New York State Employment Relations Board (State Board).

2. The Employer is engaged in the real estate business and owns a 51-unit residential apartment house located at 733 Arnow Avenue, Bronx, New York, which generates annual residential rental income in the amount of \$350,354. During the past year the Employer's out-of-state oil purchases amounted to \$22,398 and its electricity purchases from Con Edison, a part of the national power grid, amounted to \$4791.

3. Eckstein Associates (Eckstein) is the managing agent for the building as well as for a number of residential apartment buildings in the New York metropolitan area, including 2961 Marion Avenue, Bronx, New York, owned by 2961 Marion Realty Associates, which generates in excess of \$500,000 in annual rental income,<sup>1</sup> and 1151 Elder Avenue, Bronx, New York, managed by 1151 Elder Associates, L.L.C. which generates annual residential income in excess of \$267,000.<sup>2</sup>

4. The Employer is unaware whether the Union admits or denies the aforesaid commerce data, and the

State Board has not made any findings with respect thereto.

5. There are no representation or unfair labor practice proceedings involving the Employer pending before the Board.

Although all parties were served with a copy of the Petition for Advisory Opinion, no response was filed.

Having duly considered the matter,<sup>3</sup> the Board is of the opinion that it would assert jurisdiction over the Employer. The Board has established a \$500,000 discretionary standard for asserting jurisdiction over residential buildings.<sup>4</sup> Here, the petition indicates that the total annual rental income of the residential apartment buildings managed or owned by the Employer and Eckstein is well in excess of that amount. Thus, assuming that the Employer and Eckstein are a single or joint employer at the subject building, the Employer clearly satisfies that standard.<sup>5</sup> As the petition further alleges that the Employer's out-of-state oil purchases were \$22,398 in the past year, the Employer also clearly satisfies the Board's statutory standard for asserting jurisdiction.

Accordingly, the parties are advised that, based on the foregoing allegations and assumptions, the Board would assert jurisdiction over the Employer.<sup>6</sup>

<sup>3</sup> The Board has delegated its authority in this proceeding to a three-member panel.

<sup>4</sup> See *Parkview Gardens*, 166 NLRB 697 (1967).

<sup>5</sup> It is well established that the commerce data of single or joint employers may be combined for jurisdictional purposes. See *Valentine Properties*, 319 NLRB 8 (1995), and cases cited there. Further, the Board has traditionally aggregated the gross revenues derived from all residential buildings managed by an employer in determining whether the employer satisfies the Board's discretionary standard. See, e.g., *Mandel Management Co.*, 229 NLRB 1121 (1977).

<sup>6</sup> The Board's advisory opinion proceedings under Sec. 102.98(a) are designed primarily to determine whether an employer's operations meet the Board's "commerce" standards for asserting jurisdiction. Accordingly, the instant Advisory Opinion is not intended to express any view whether the Board would certify the Union as representative of any petitioned-for unit under Sec. 9(c) of the Act. See generally Sec. 101.40 of the Board's Rules.

<sup>1</sup> See 2961 *Marion Realty Associates*, 322 NLRB 262 (1996).

<sup>2</sup> 1151 *Elder Associates, L.L.C.*, 322 NLRB 582 (1996).